

*A Summary of*  
PUBLIC LIBRARY LAW

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BY

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## P R E F A C E

THIS work is intended primarily for students taking the professional examinations in librarianship, but it is hoped that it will prove a reliable summary of the law for all purposes.

An endeavour has been made to provide a work complete in itself and containing all that is likely to be required on the subject.

A summary of the library law of the British Dominions and of the United States of America is to be found in Mr. Sanderson's *Public Library Law*, 1925, and a statement of the law of the United States and the British Dominions and possessions in the continent of America in Mr. Fergusson's *American Library Laws*, 1930. The author's *The Law relating to Public Libraries in England and Wales*, 1930, may be used when a comprehensive study of the subject is desired.

A. R. H.

MIDDLE TEMPLE,

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# TABLE OF ABBREVIATIONS

A YEAR, followed by a section number, means the Public Libraries Act of that year and the relevant section, as follows :

## England and Wales :

- 1892—The Public Libraries Act, 1892.
- 1893—The Public Libraries (Amendment) Act, 1893.
- 1901—The Public Libraries Act, 1901.
- 1919—The Public Libraries Act, 1919.

## Scotland :

- 1887—The Public Libraries Consolidation (Scotland) Act, 1887.
- 1894—The Public Libraries (Scotland) Act, 1894.
- 1899—The Public Libraries (Scotland) Act, 1899.
- 1920—The Public Libraries (Scotland) Act, 1920.

## Ireland (Northern Ireland and the Irish Free State) :

- 1855—The Public Libraries Act (Ireland), 1855.
- 1877—The Public Libraries (Ireland) Amendment Act, 1877.
- 1894—The Public Libraries (Ireland) Act, 1894.
- 1902—The Public Libraries (Ireland) Act, 1902.
- 1911—The Public Libraries (Art Galleries in County Boroughs) (Ireland) Act, 1911.
- 1920—The Public Libraries (Ireland) Act, 1920.
- 1924—The Public Libraries Act (Northern Ireland), 1924.

## Other abbreviations used are :

- Educ. A. 1921—The Education Act, 1921.
- L.G.A. 1888—The Local Government Act, 1888.
- L.G.A. 1894—The Local Government Act, 1894.
- L.G.A. 1925 [I.F.S.]—The Irish Free State Local Government Act, 1925.

## TABLE OF ABBREVIATIONS

- L.G. (Sc.) A. 1929—The Local Government (Scotland) Act, 1929.  
 Lond. G.A. 1899—The London Government Act, 1899.  
 M. & G.A. 1891—The Museums and Gymnasiums Act, 1891.  
 M.C.A. 1882—The Municipal Corporations Act, 1882.  
 M. of H. (Transfer) O. 1920—The Ministry of Health (Public Libraries, Museums and Gymnasiums, Transfer of Powers) Order, 1920.  
 P.H.A. 1875—The Public Health Act, 1875.  
 P.H. Acts Am. A. 1907—The Public Health Acts Amendment Act, 1907.  
 P.H. (Lond.) A. 1891—The Public Health (London) Act, 1891.  
 R. & V.A. 1925—The Rating and Valuation Act, 1925.  
 S.R.O.—Statutory Rules and Orders.

The expression "the Acts" used throughout the work means: in relation to England and Wales—the Public Libraries Acts, 1892 to 1919; in relation to Scotland—the Public Libraries (Scotland) Acts, 1887 to 1920; in relation to Northern Ireland—the Public Libraries Acts (Northern Ireland), 1855 to 1924; in relation to the Irish Free State—the Public Libraries (Ireland) Acts, 1855 to 1920.



# ENGLAND AND WALES

## THE PUBLIC LIBRARIES ACTS,

1892 TO 1919

THE Public Libraries Acts, 1892 to 1919, are not of general application, but are known as "Adoptive Acts," applying only to those localities in which they have been adopted. The expression "Public Libraries Acts" means: the Public Libraries Act, 1892 (the principal Act); the Public Libraries (Amendment) Act 1893; the Public Libraries Act, 1901, and the Public Libraries Act, 1919. There are several other statutes relating to the provision and maintenance of public libraries, the more important of which are the Public Health Acts, the Local Government Acts, the various Acts relating to Audit, the Libraries Offences Act, 1898, the London Government Act, 1899, and the Rating and Valuation Act, 1925.

## ADOPTION

SINCE the passing of the principal Act in 1892, which consolidated all the previous public libraries Acts, the procedure for adoption has been considerably simplified. Except for parishes all that is now required is a formal resolution of adoption by the council of the local authority.

The library authority in parishes is the parish council, or if there is no parish council, the commissioners appointed by the parish meeting; in urban districts, the urban district council; in boroughs, the borough council; in Metropolitan boroughs, the Metropolitan borough council; in county boroughs, the county borough council; and in counties, the county council. The library authority in the City of London is the Common Council.

*Methods of Adoption*

IN *parishes* the Acts may be adopted by resolution of the parish meeting (L.G.A. 1894, s. 7 (1)). It would seem that a requisition in writing by ten or more local government electors must be made to the chairman of the parish meeting, or, if there be a parish council, to the chairman of the council, requiring him to call a parish meeting to ascertain the opinions of the electors. Not less than 14 days' notice of any such meeting must be given. The question must be decided by the majority of those present and voting, and the chairman must announce his decision as to the result, and that decision is final, unless a poll is demanded. A poll may be demanded by any one elector, providing the demand is made before the conclusion of the meeting. The poll must be taken by ballot in manner provided by the Local Government Act, 1894 (L.G.A. 1894, ss. 7 (2) and 48; 1st sch.). If the result is against adoption no further proceedings may be taken for one year.

Most parishes in England and Wales have been included in the various county resolutions of adoption, and the power of adoption by such parishes no longer exists (1919, s. 1 (2)). There are now only three county councils which have not yet adopted the Acts.

In *county boroughs*, *boroughs*, and *urban districts*, adoption is by resolution of the council (1893, s. 2 as amended; 1919, s. 7).

In *Metropolitan boroughs* the Acts are adopted in the same manner as in a borough outside the Metropolis (Lond. G.A. 1899, which transferred the powers and duties of library commissioners and boards to the respective borough councils, and the powers of elective vestries and district boards to the council of the borough comprising the area within which the powers were exercised (s. 4)).

In *counties* the county council has power by resolution, specifying the area to which the resolution extends, to adopt the Acts for the whole or any part of the county, but *exclusive* of any part which is an existing library area at the time of the county adoption (1919, s. 1 (1)). (An existing library area includes an area in which a public library is maintained under a local Act of Parliament.)

Where a resolution of adoption is passed by the council of a county the power of adoption by any district in the area specified in the county resolution ceases forthwith, the Acts being carried into execution by the county council as the library authority (*ibid.*, s. 1 (2)).

To exclude a particular district from a county resolution, expenses under the Acts must have been incurred within the last preceding financial year. This provision prevents a mere resolution of adoption by authorities having no intention of carrying the Acts into operation, but merely wishing to baulk a county adoption for their area.

Formerly the *Museums and Gymnasiums Act*, 1891, could be adopted by any urban authority by resolution of the council, provided that one month's notice at least was given to every member of the authority. But the power of adopting this Act for Museum purposes was repealed by the Act of 1919, and it may now be adopted only for Gymnasium purposes; but *see further* under "Museums and Gymnasiums Act" and "Facilities which may be Provided," *post*, pp. 29, 30.

### *Notice of Adoption*

ON adoption of the Acts by any local authority, notice in writing must be forwarded by the council of the adopting authority to the Minister of Health and to the Board of Education (1901, s. 8 as amended by the M. of H. (Transfer) O., 1920). (These provisions also obtain with regard to adoption of the *Museums and Gymnasiums Act*, 1891.)

### *Relinquishment of Powers*

ANY library authority, not being a county borough, may, on such terms as may be agreed upon and with the approval of the Board of Education, relinquish their powers and duties under the Acts to the council of the county (1919, s. 2 (1)). On such relinquishment any property, rights, and liabilities are transferred to, and become vested in, the county council (*ibid.*, s. 2 (2)).

The council of a county by whom a resolution of adoption has been passed, may, if it be thought desirable, apply to the Board of

Education for an order rescinding the resolution of adoption in so far as it relates to any particular district within the area for which the county is the library authority (*ibid.*, s. 5 (1)). Upon the issue of such an order the district concerned is from then onwards a separate library district. The rescinding order may provide for the transfer of any property or rights acquired or liabilities incurred under the Acts from the county council to the new library authority of the district concerned, but no such liabilities may be transferred without the consent of the new library authority (*ibid.*, s. 5 (2)).

## COMBINATION

*Parishes.*—Two or more neighbouring parishes may, by agreement, combine for any period in carrying the Acts into execution (1892, s. 9). The powers and duties under the Acts are then executed by a joint committee of the councils of the combining authorities (L.G.A. 1894, s. 57), but in parishes where there is no council the parish meetings each appoint not more than six commissioners, forming a body which then acts as the library authority (1892, s. 9).

A parish adjoining a library district which has adopted the Acts may be annexed to that district for the purposes of the Acts (*ibid.*, s. 10)—that is to say, a parish, not wishing to adopt the Acts, may, by agreement, utilize the library facilities in an adjoining library district by being annexed to, but not combining with, the neighbouring district.

The expenses of carrying the Acts into execution by combined parishes are defrayed in such proportions as may be agreed upon between them (*ibid.*, s. 9).

*Borough and Urban Authorities.*—The library authorities of two or more neighbouring urban districts may, by agreement, combine for any period for carrying the Acts into execution, expenses being defrayed in proportions to be agreed upon between the combining authorities (1893, s. 4).

Neighbouring library authorities may also agree to share, in such

proportions and for such period as may be determined by agreement, the cost of purchase, erection, repair, and maintenance of library buildings in either of their districts. The cost of the purchase of books and newspapers for any such library, and all other incidental expenses, may also be shared proportionately, and, in like manner, the management and use of the contents of any such library shall also be agreed upon (1901, s. 5).

Any library authority may enter into a similar agreement with the governing body of any library established or maintained out of charity funds controlled by the Board of Education (1892, s. 16).

Any agreement between library authorities (or between a library authority and any other body) already described, may provide that on the termination of the agreement an adjustment shall be made of the interests of the parties thereto in any property jointly provided by them. In any dispute as to adjustment the question shall be settled by an arbitrator appointed by the Minister of Health (1892, s. 24).

## COMMITTEES

*Parishes.*—Parish councils may appoint committees, for the exercise of any of their powers, consisting partly or wholly of members of the council (L.G.A. 1894, s. 56 (1)). In parishes having only a parish meeting, the powers and duties under the Acts may be carried into execution by a body of commissioners elected, by rotation, for three years. The number must not be less than three or more than nine (1892, ss. 4 to 9). But a committee may be appointed by virtue of the Local Government Act, 1894, which empowers parish meetings to appoint committees of their own members for any purposes (s. 19 (3) of that Act).

*Borough and Urban Authorities.*—A library authority, being an urban authority, may, if it be thought fit, appoint a committee and delegate to it all or any of their powers and duties relating to the general management, regulation, and control of any library provided under the

Acts. The committee is then, to the extent of such delegation, deemed to be the library authority (1892, s. 15). (As to extent of delegation of powers, *see post*, p. 17.)

*County Councils.*—In counties all matters relating to the exercise of powers and duties under the Acts, with the exception of the power of raising a rate or borrowing money, are referred to the education committee established under the Education Act, 1921 (formerly the Education Acts, 1870 to 1918, but these Acts were consolidated in the Act of 1921), (1919, s. 3 (1)). Unless the matter is considered urgent, the county council must receive and consider the report of the education committee on matters relating to the exercise of their powers and duties under the Acts—a provision of doubtful utility. The education committee may appoint a sub-committee consisting either in whole or in part of their members, and may delegate to any such sub-committee all or any of their powers and duties, except the power of raising a rate or borrowing money (*ibid.*, s. 3 (2)).

*County Boroughs.*—County borough councils adopting the Acts after 1919 are obliged to refer their powers and duties under the Acts, except the power of raising a rate or borrowing money, to the education committee in the same manner as county councils above, and must also receive and consider the report of the education committee before exercising any of their powers and duties under the Acts (1919, s. 3 (1)).

County boroughs in which the Acts were adopted before the passing of the Act of 1919 may refer their powers and duties under the Acts to the education committee, but they are not obliged so to do (*ibid.*, s. 3 (2)). They may also delegate any matters, except the raising of a rate or the borrowing of money, to the education committee, who may, in turn, delegate all or any of their powers and duties to a sub-committee consisting, either in whole or in part, of their members (*ibid.*).

*Education Committees of Counties and County Boroughs.*—References to the "local education authority for the purposes of Part II of the Education Act, 1902" throughout s. 3 of the Act of 1919 (relating to reference and delegation of library powers) mean the council of

a county or a county borough, a "Part II" authority being an authority for the purposes of higher education. Education committees are now established under s. 3 (2) of the Education Act, 1921, and need not necessarily consist entirely of members of the local authority.

It must be remembered that where library powers and duties are referred or delegated to an education committee, those powers and duties must not be deemed to be powers under the Education Act, 1921 (1919, s. 3 (3)).

*Joint Committees of Combined Authorities.*—Where the Acts are adopted by combined boroughs or urban districts a joint committee may be appointed in such proportions as may be agreed upon. Any such committee need not consist entirely of members of the authorities concerned. The committee shall have such of the powers of a library authority, except the power of borrowing money, as the combined authorities deem expedient to confer upon them (1893, s. 4 (2)).

In combined rural parishes, having parish councils, a joint committee may be appointed for the purposes of the execution of such powers and duties, except the power to borrow money or make any rate, as the combining authorities may confer upon them (L.G.A. 1894, s. 57).

In the case of combined parishes having only parish meetings, it seems that a joint body of commissioners of not more than six from each parish shall be appointed (1892, s. 9 (2)).

*Reference and Delegation of Powers to Committees.*—Any powers of a parish council may be exercised by a committee appointed by the council for the purpose, but the acts of any such committee must first be submitted to the council for approval (L.G.A. 1894, s. 56 (1)).

In boroughs and urban districts only the powers and duties relating to the general management, regulation, and control of the libraries, etc., may be delegated to the library committee (1892, s. 15)—the power of raising a rate or borrowing money being reserved to the council of the authority. Library committees of Metropolitan

boroughs are definitely precluded from the power of raising money for library purposes by means of a rate or by loan (Lond. G.A. 1899, s. 8 (2)).

County boroughs which adopted the Acts before 1919 are empowered to delegate certain powers and duties in the same way as boroughs above. The Act of 1919 provides that they may refer any matter relating to the exercise of their powers and duties under the Acts to the education committee, and may delegate to that committee any of their powers under the Acts, other than the power of raising a rate or borrowing money (1919, s. 3 (2)). But county boroughs adopting the Acts after 1919 are obliged to refer all matters, except the power of raising a rate or borrowing money, to the education committee (*ibid.*, s. 3 (1)). Particular care should be taken to note the effect of the Act of 1919, namely, adoption prior to 1919: county boroughs *may* refer matters to the education committee; adoption after 1919: county boroughs *shall* refer matters to the education committee—and also the difference between “refer” and “delegate.”

All or any of the powers and duties which have been delegated to an education committee may be delegated by that committee to a sub-committee (*ibid.*, s. 3 (2)).

County councils are obliged to refer all their powers and duties under the Acts, except the power of raising a rate or borrowing money, to the education committee, who may in turn delegate all or any such powers to a sub-committee (*ibid.*).

In combined boroughs and urban districts all or any of the powers and duties under the Acts, with the one exception of the power to borrow money, may be delegated to the joint committee (1893, s. 4 (2)), but in combined parishes both the power of raising a rate and the power of borrowing money are excepted (L.G.A. 1894, s. 57 (2)). It seems that this also obtains in combined Metropolitan boroughs (L.G.A. 1894, s. 57, applied by the Lond. G.A. 1899, s. 8 (4)).

It should be borne in mind that delegation of powers by a local authority to any committee does not relieve the local authority from



liability for the acts of the committee (*Bungary v. Wellingborough U.D.C.*, 1903, 67 J.P. Jo. 304).

Except in the cases of county councils and county borough councils adopting the Acts after 1919, delegation and reference of powers to committees is permissible, but whether all, some, or none of the powers under the Acts shall be delegated or referred rests with the council of the authority. There are two types of committees—"reporting" and "recommending." The former merely reports its actions, but the latter recommends its proposals to the council for approval. The advantage of a "reporting" committee over a "recommending" committee is obvious.

*Co-optation and Membership of Committees.*—In parishes having a parish council, committees may consist either wholly or partly of members of the council (L.G.A. 1894, s. 56 (1)), and a joint committee of combined parishes may consist partly of persons not members of the local authorities (*ibid.*, s. 57 (5)).

In boroughs and urban districts and in combined districts persons appointed to library committees or joint committees, as the case may be, need not be members of the local authority (1892, s. 15 (3); 1893, s. 4 (2)).

Any library committee appointed by a Metropolitan borough may consist partly of persons not members of the council (Lond. G.A. 1899, s. 8 (1)).

In counties and county boroughs any education sub-committee appointed under s. 3 (2) of the Act of 1919 may consist either in whole or in part of members of the education committee.

It will be seen that all members of library committees need not necessarily be members of the council of the local authority. Methods of appointing committees vary; in some instances a committee is appointed consisting wholly of members of the council, and in others, committees consist partly of members of the council and partly of other persons. In both cases the library committee is frequently empowered to co-opt other persons to serve on the committee. As to "reporting" committees and "recommending" committees, see above.

## LIBRARY RATE; EXPENSES

THERE is no statutory limit on the rate for public library purposes, the previous limit of one penny in the pound having been removed by the Act of 1919 (s. 4 (1)). In a sense a limit is still operative in parishes, but it may be extended by permission of the parish meeting (this provision is dealt with at length later in this section).

If the library authority of any library district declares, by resolution, that the rate to be levied for public library purposes shall not exceed a certain sum, such limitation cannot be rescinded within a period of twelve months from the time of passing the resolution (1919, s. 4 (1)).

Prior to the removal of the penny limit by the Act of 1919 some authorities secured an alteration or the removal of the statutory limit by means of a local Act.

In *parishes* the library rate is now levied as an additional item of the general rate (R. & V.A. 1925, s. 2 (6)). Under the Local Government Act, 1894, s. 11 (1), a parish council could not, without the consent of the parish meeting, incur expenses or liabilities which would involve a rate exceeding threepence in the pound. This limit of threepence was extended to fourpence by the Local Government Act, 1929, s. 75. A parish council may not incur any expense or liability which will involve the raising of a loan without the consent of the parish meeting and of the county council (L.G.A. 1894, s. 11 (1) (2)).

In other districts expenses are defrayed as follows :

*Urban Districts.*—Out of the general district rate, or a separate rate may be levied (1892, s. 18 (1) (b)).

*County Boroughs or Boroughs.*—Out of the borough fund or borough rate, or a separate rate may be levied (*ibid.*, s. 18 (1) (a)).

*Metropolitan Boroughs.*—Out of the general rate (Lond. G.A. 1899, s. 10 (1)).

*City of London.*—Out of the consolidated rate levied by the Common Council, or a separate rate may be levied in the same manner by the Common Council (1892, s. 21 (3)).

*Counties.*—Out of the county fund (being rates levied for general

county purposes) (1919, s. 4 (2)). Counties may charge library expenses on parishes, including parishes within a borough or urban district, which they consider are served by any of the library facilities provided (*ibid.*). Such special rating (sometimes referred to as differential rating) may only be after reasonable notice to the chairman of the parish council or meeting, and, in cases of a parish situate within a borough or urban district, after consultation with the council. Where a parish is situated within an existing library area the concurrence of the library authority of the area must also be secured (*ibid.*).

Expenses incurred under the Museums and Gymnasiums Act are defrayed as part of the general expenses of the authority, but the sum could not, in any year, exceed an amount produced by a rate of a half-penny in the pound (M. & G.A., s. 10 (2) (5)), but this limit was increased by 33⅓% by the Local Government Act, 1929, s. 75.

## ACCOUNTS AND AUDIT

SEPARATE accounts must be kept of receipts and expenditure under the Acts of *every* library authority, and must be audited in like manner as the other accounts of the local authority (1892, s. 20).

In the case of *municipal boroughs* three borough auditors are elected, two by the burgesses, called elective auditors, and one by the mayor, called mayor's auditor. The elective auditors must not be members of the council or officials, but the mayor's auditor must be a member of the council (M.C.A. 1882, ss. 25-28). The treasurer must print a full abstract of his accounts yearly, and the town clerk must make a return to the Minister of Health yearly of the receipts and expenditure of the corporation within one month of the audit (*ibid.*).

In certain boroughs provision is made for a Government audit by means of a local Act of Parliament; in which case, therefore, these provisions do not apply.

The accounts of *all other* library authorities, including the accounts of their officers, are audited by district auditors appointed by the

## PUBLIC LIBRARY LAW

Minister of Health in accordance with the District Auditors Act, 1879, and the provisions which obtain are as follows:

The accounts of *library commissioners* must be audited yearly by the district auditor (1892, s. 20 (2));

In *parishes* accounts shall be made up yearly to the 31st March; shall be audited by a district auditor; shall be open to inspection at all reasonable times and extracts may be made therefrom, free of charge (L.G.A. 1894, s. 58);

In *urban districts* (not being boroughs) accounts shall be audited yearly by a district auditor; notice shall be given of the audit; the accounts shall be open to inspection and extracts therefrom may be made. Within fourteen days of the audit an abstract of the accounts shall be published (P.H.A. 1875, ss. 247-250);

In *county boroughs* the provisions of the Municipal Corporations Act, 1888, above, apply;

In *counties* accounts must be made up and audited yearly by a district auditor; a return must be made to the Minister of Health; an abstract must be published; and, in addition, the provisions of the Public Health Act, 1875, ss. 247 and 250, above, apply (1919, s. 4; L.G.A. 1888, s. 71);

In *combined districts* accounts are subject to audit by a district auditor (1893, s. 4 (3)) with the same consequences and provisions as accounts of other library authorities.

Accounts under the *Museums and Gymnasiums Act* must be audited in the same manner as the other accounts of an urban authority (M. & G.A., s. 10 (4)).

It will be noticed that, except in the case of a municipal borough, accounts of all authorities must be open to inspection and that extracts therefrom may be made, free of charge (1892, s. 30 (3); P.H.A. 1875, s. 247 (4)). In municipal boroughs the publication of an abstract of accounts serves the same purpose. Copies of accounts may be obtained from the clerk of the local authority on payment of a reasonable charge.

In the case of accounts formerly required to be made up and audited half yearly, the Audit (Local Authorities, etc.) Act, 1922,

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enacted that, where it is provided in any Act that accounts subject to audit by district auditors are to be made up and audited half-yearly, those accounts must be made up yearly and audited once in every year.

## RATES AND TAXES

BUILDINGS and land provided and maintained by library authorities are *not* exempt from the payment of local rates (*Liverpool Corporation v. West Derby Union*, 1905, 3 L.G.R. 647). It has been said that some library authorities avoid the payment of rates, but it seems that there is no statutory authority for so doing, unless, of course, exemption has been secured by means of a local Act of Parliament. The possession of a certificate from the Registrar of Friendly Societies granting exemption from the payment of rates on land and buildings belonging to certain societies, does not free libraries from the liability. In the *Liverpool* case the plaintiffs held such a certificate, but it was set aside with the result that the Registrar will not now grant certificates to public libraries.

In the case of the payment of income-tax, however, public libraries are exempt. Exemption was formerly granted under the Income Tax Act of 1842, s. 61, No. vi, but that Act was repealed by the consolidating Act of 1918. Exemption for public libraries is now under the authority of s. 37, sch. A. vi, 1 (e) of the Act of 1918, which provides that further allowances shall be made under Schedule A of the tax charged on any building being the property of any literary or scientific institution. In the case of the Mayor, etc., of Manchester *v. McAdam* ([1896] A.C. 500), it was held that a public library must be included in the description "literary and scientific institution."

## BORROWING POWERS AND LOANS

*Every library authority* may, with the approval of the Minister of Health, borrow money for the purposes of the Acts on the security of

any fund or rate applicable for those purposes; and the provisions of the Public Health Act, 1875, relating to borrowing by a local authority (with necessary modifications), apply (1892, s. 19).

In the case of borrowing by county councils, however, the provisions of the Local Government Act, 1888, s. 69, apply (1919, s. 3 (1)).

In the case of parishes the provisions of the Public Health Act, 1875 (ss. 233, 234, 236, 239) apply, but the actual authority for borrowing is under the Local Government Act, 1894, s. 12 (3). A parish council must secure the consent of the parish meeting and the county council, as well as of the Minister of Health, before raising a loan for library purposes. Borrowing by a body of Library Commissioners must be with the consent of the parish meeting and of the Minister (1892, s. 19 (1)).

The provisions of the *Public Health Act*, 1875, relating to borrowing may be summarized as follows:

“Any local authority may borrow money, with the sanction of the Minister, on the credit of any fund or all or any rate or rates.

“Money shall not be borrowed except for permanent works (as to ‘permanent works’ see *further*, p. 25).

“Money may be borrowed for such time, not exceeding sixty years, as may be determined, and must be repaid in equal annual instalments of principal or of principal and interest, or certain sums may be set apart each year as a sinking fund.

“Provision is also made for the forms of mortgages and of transfer of mortgages which may be used; and for registers of mortgages (which shall be open to inspection without fee) and of transfer of mortgages to be kept at the office of the authority.”

The Local Government Act, 1888, provides for borrowing by county councils as follows:

“The county council may borrow money, with the consent of the Minister, on the security of the county fund or of any revenues of the

council for purchasing any land or building any building and for any permanent work or other thing which the council is authorized to do.

“Loans must be repaid within sixty years (1919, s. 1 (3)) by equal yearly or half-yearly instalments of principal, or of principal and interest, or by means of a sinking fund.

“Loans may be raised by means of issue of stock, by debentures or annuity certificates, or by mortgages in accordance with the Public Health Act, 1875.”

Under the Local Government Act, 1894, a parish may borrow money, with the consent of the parish meeting, the county council, and the Minister, for the purchase of any land, or for building any building or for any purpose under the Public Libraries Acts. Under this Act the county council is also authorized to lend money to a parish council. The provisions relating to borrowing contained in the Public Health Act, 1875, above, are applied to parishes by this Act, but the authority for borrowing is under this Act and not under the Public Health Act.

Urban authorities which adopted the Museums and Gymnasiums Act, may borrow money for the purposes of that Act, and the provisions of the Public Health Act, summarized above, apply. The Public Works Loan Commissioners may also lend money for the purposes of that Act (M. & G.A. 1891, s. 10 (3)).

The normal periods allowed by the Minister for the purpose of the repayment of loans are:

Erection of buildings, including extensions and	
alterations . . . . .	30 years
Furniture and fittings . . . . .	15 years
Books . . . . .	5 years

Although the Public Health Act, 1875, definitely provides that borrowing shall only be allowed for permanent works, library authorities may borrow for any purpose connected with the execution of the Public Libraries Acts. The term “permanent works” is to

be understood to mean works appertaining to the structure of the building.

The statutory limits imposed on the borrowing powers of local authorities were removed by the Local Government Act, 1929, s. 74.

Some local authorities secure special borrowing powers by means of a Local Act of Parliament and, from time to time, additional powers under additional Local Acts.

The Public Works Loan Commissioners may lend any money which may lawfully be borrowed by a library authority (1892, s. 19 (3)). These Commissioners form a body established by the Public Works Loans Act, 1875, and have power, at their discretion, to grant loans out of public money to local authorities for various public works. Before advancing money, security for repayment is required, usually a mortgage on property or on a rate or on both (s. 12). Other methods of borrowing money are by mortgage, issue of stock, by debentures, by local bonds, by application of redemption and sinking funds, etc.

## LANDS AND BUILDINGS

THE library authority of *any* library district may purchase and hire land and may erect, take down, rebuild, alter, and extend buildings (1892, s. 11 (1)). For the purpose of the purchase of land the provisions of the Lands Clauses Acts (except those relating to purchase otherwise than by agreement) are deemed to be incorporated with the Public Libraries Acts (*ibid.*, s. 12 (1)).

The library authority of an *urban* district may, with the sanction of the Minister of Health, appropriate for the purposes of the Acts, any land which is vested in the authority (*ibid.*, s. 12 (2)).

A Metropolitan borough may, with the sanction of the Minister of Health, appropriate for the purposes of the Acts any land vested in the borough council (*ibid.*, s. 23).

The library authority of *any* library district may, with the sanction



of the Board of Education, sell or exchange any land vested in them for the purposes of the Acts. Money arising from a sale or received by way of equality of exchange may be used in the purchase of other land better adapted for the purpose, or, with the approval of the Board, may be used for any other purpose in which capital money is required in connection with the execution of the Acts (*ibid.*, s. 12 (3)).

The library authority of *any* library district may let the whole or any part of a house or building, or any land vested in them, which is not at the time of letting required for the purposes of the Acts. The rents and profits thereof shall be applied for the purposes of the Acts (*ibid.*, s. 12 (4)).

Any person may grant or convey, by gift, sale, or exchange, land not exceeding one acre to a library authority for the purposes of the Acts. Provided that: ecclesiastical property shall not be granted or conveyed without the consent of the Ecclesiastical Commissioners; parochial property shall not be granted or conveyed without the consent of the Minister of Health; charitable property shall not be granted or conveyed without the consent of the Charity Commissioners; land situated in the county of London or in any urban district of over 20,000 inhabitants, held on trust as an open space or on trusts which prohibit building thereon, shall not be granted or conveyed (*ibid.*, s. 13 (2)). Any land so granted or conveyed may be held by the library authority without any licence in mortmain (*ibid.*, s. 13 (3)).

*Compulsory Acquisition of Land.*—A library authority being an education authority for the purposes of Part II of the Education Act, 1902 (now the Education Act, 1921), namely the council of a county or county borough, may be authorized to purchase land compulsorily for the purpose of any of their powers and duties under the Acts (1919, s. 6). For this purpose the provisions of the Education Act, relating to the compulsory purchase of land, apply. The relevant provisions may be summarized as follows: An order for the compulsory purchase of land must be submitted to and confirmed by the Board of Education; it shall be in the form prescribed by the

Board of Education (Compulsory Purchase) Regs., 1925; the order must be published by advertisement before submission to the Board; if an objection thereto has been made, the Board shall hold a public inquiry; in certain cases the order shall be provisional until confirmed by Parliament; copies of the order shall be available, both before and after confirmation, free of charge, to any person interested in the land (*ibid.*; Educ. A. 1921, s. 111; S.R.O. 1925, No. 1236).

*Vesting of Property.*—All land appropriated, purchased, or rented, and all other property presented to or purchased or acquired for any library, museum, art gallery, or school under the Acts shall be vested in the library authority (1892, s. 14).

*Museums and Gymnasiums Act.*—Land for the purposes of this Act may be acquired by an urban authority, but no land may be acquired otherwise than by agreement. An urban authority may, with the consent of the Minister of Health, appropriate, for the purposes of this Act, any land which may be vested in them or at their disposal (M. & G.A. 1891, s. 11). Authorities which adopted this Act were also empowered to erect buildings and generally do all things necessary for the provision and maintenance of museums (*ibid.*, s. 4).

*Unauthorized User.*—The important case of the Attorney-General *v.* Westminster City Council decided that premises provided and maintained under the Acts for the purposes of a public library may not be used by the local authority for any other purpose. In that case premises were erected for use as a public library by the library commissioners of a parish and later by agreement the premises were used as joint library for that parish and a neighbouring parish. These parishes became merged in a Metropolitan borough, and the powers, duties, property, and liabilities of the commissioners for the two parishes were transferred to the Metropolitan borough council. The council subsequently adopted the Acts for their entire area, and under the City of Westminster (Adoptive Acts) Scheme, 1902, the Acts were directed to be administered by the council uniformly throughout their area as a single library district. At the outbreak of the war the library was closed and used for national purposes. It remained closed, except that for a time, as the result of protests by

ratepayers, one floor was opened as a reference library. In 1920 the council decided to incorporate the library premises with their City Hall for use for administrative purposes. No alternative premises for the library were procured and the books were removed to other libraries in the council's area. The action was brought by the Attorney-General on the relation of the vicar and rector respectively of the two parishes to prevent the proposed use of the library premises. The Court of Appeal affirmed the decision of Tomlin J., and *held* that it was *ultra vires* for the council to use the library premises for purposes other than that of a public library, such user not being authorized by the Public Libraries Act, 1892 ([1924] 2 Ch. 416).

## MUSEUMS AND GYMNASIUMS ACT, 1891

URBAN authorities were empowered to provide public museums under this Act, an adoptive Act, which could be adopted for the district either wholly or in so far as it related to museums only (ss. 3 (1), 4). It was extended to the administrative county of London by the Act of 1901, s. 13. Adoption was by resolution of the council after at least one month's notice to every member of the authority (s. 3 (2)). The power to provide museums under this Act was, however, repealed by the Public Libraries Act, 1919, s. 9, but without prejudice to the power of maintaining under the Act of 1891 any museum established before December 1919. The Act of 1919 further provided that, where the district for which a museum had been established under the Act of 1891 was, in 1919, a library district or later became a library district, the museum should be transferred to the library authority of the district and be maintained as though it had been provided under the Public Libraries Acts (1919, s. 9). Authorities were empowered under the Act to provide and maintain museums and generally to do all things necessary for the provision and maintenance of museums (M. & G.A. 1891, s. 4). If any such museum is found, after seven years, to be unnecessary or too expensive, an authority may, with the consent of the Board of

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Education, sell such museum (*ibid.*, s. 12). (*See further* under "Adoption," the following title, and various others.)

### FACILITIES WHICH MAY BE PROVIDED

LIBRARY authorities are empowered to provide and maintain public libraries, public museums, and art galleries, and for that purpose may purchase and hire land, and erect, take down, rebuild, alter, repair, and extend buildings, and fit up, furnish, and supply all requisite furniture, fittings, and conveniences for the same (1892, s. 11 (1)).

They may also provide books, newspapers, maps, and specimens of art and science, and cause the same to be bound and repaired when necessary (*ibid.*, s. 15 (1)).

The library authority of any library district for which the Acts were adopted before 1919 was also empowered to provide and maintain schools for science and for art. The Act of 1919 repealed the power of providing schools for science or for art, but without prejudice, however, to the power to maintain any such school established under the principal Act prior to 1919 (1919, s. 8).

The facilities which may be provided and maintained under the Acts may be summarized as follows :

*Public Libraries and Art Galleries* may be provided and maintained under the Act of 1892 (s. 11 (1));

*Schools for Science and for Art*, provided before 1919, may continue to be maintained under the principal Act. The power of provision ceased on the passing of the Act of 1919 (s. 9);

*Museums* may be provided and maintained under the principal Act of 1892 (s. 11 (1)). Museums established under the Museums and Gymnasiums Act before 1919 may be maintained under that Act, but the power of provision under that Act ceased on the passing of the Act of 1919. If, in 1919, an authority which had adopted the Museums and Gymnasiums Act for museum purposes was also

a library authority for the purposes of the Public Libraries Acts, the museum provided under the Museums and Gymnasiums Act was forthwith transferred to the library authority and maintained under the Public Libraries Acts (1919, s. 9). If the authority was not a library authority in 1919, but later became one, the museum would then be transferred to the library authority (*ibid.*).

It was provided by the Act of 1901 (s. 4) that a museum, provided under the Acts by an authority in whose area the Museums and Gymnasiums Act had been adopted, might be appropriated for the purposes of that Act, thus relieving the authority of the obligation of maintaining such museum out of the library rate. But in view of the foregoing provisions any such museum would be re-transferred to the library authority after the commencement of the Act of 1919 in accordance with s. 9 of the Act.

*Lectures.*—There are no provisions in the Acts enabling library authorities to provide lectures. Some library authorities overcome the difficulty by defraying expenses incurred by the provision of lectures out of moneys received by way of fines or by the sale of books, etc., and in some cases the costs are met out of the borough fund, the auditors allowing such items, provided they are not excessive. Many local authorities have secured permission by means of a local Act to provide and maintain lecture rooms, and cause lectures to be delivered, and to make a charge for admission to any such lectures. In these circumstances the lectures are sometimes provided as part of the education scheme, but more often than not they form part of the library activities.

## BYELAWS AND REGULATIONS

### *Byelaws*

A LIBRARY authority may make byelaws relating to any library, museum, art gallery, or school under their control for regulating the use of the same and of the contents, and for protecting the same and

the fittings, furniture, and contents from injury, destruction, or misuse; for requiring a guarantee or security from any person using the same; and for enabling the staff to exclude or remove persons committing any offence against the Libraries Offences Act, 1898, or against the byelaws (1901, s. 3).

Under the Museums and Gymnasiums Act authorities were also empowered to make byelaws for regulating the use of museums established or maintained under that Act (s. 7 (2)). Any such byelaw may provide for the removal from the museum by the staff or by any constable of any person infringing the byelaws. It should be noted that byelaws under this Act may expressly provide for the assistance of the police in removing an offender.

All byelaws must be made subject and according to the provisions relating to byelaws in the Public Health Act, 1875 (ss. 182-186). Byelaws may impose reasonable penalties on offenders, not exceeding £5 for each offence, and in the case of a continuing offence a further 40s. for each day after written notice of the offence from the authority (P.H.A. 1875, s. 183). They must be printed and be available for distribution to such ratepayers as may demand them (*ibid.*, s. 185).

Byelaws must be submitted to, and confirmed by, the Board of Education (M. of H. (Transfer) O., 1920).

Notice of intention to apply for confirmation of byelaws must be given in one or more of the local newspapers for one month; proposed byelaws must also be open to inspection by the ratepayers at the office of the local authority for one month before application for confirmation is made (P.H.A. 1875, s. 184).

All offences against byelaws may be prosecuted and penalties recovered in manner provided by the Summary Jurisdiction Act (1901, s. 3 (3)).

A set of "Model Byelaws," made under s. 3 of the Act of 1901 by the Board of Education, was issued in 1901. In 1930, the Library Association published a new and revised set of byelaws, duly approved by the Board, better adapted for present-day conditions.

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### *Regulations*

LIBRARY authorities may make regulations for the safety and use of every library, museum, art gallery, or school under their control, and for admission thereto (1892, s. 15 (2)).

Under the Museums and Gymnasiums Act authorities are also empowered to make regulations so far as the execution of that Act is concerned (s. 7 (1)). If a museum established under that Act is transferred to a library authority in accordance with s. 9 of the Act of 1919, regulations would then be made under the authority of the Public Libraries Acts.

In 1928 the London and Home Counties Branch of the Library Association issued a "Model" code of Rules and Regulations.

### *Note*

Rules and regulations differ from byelaws inasmuch as they are not enforceable in a court of law as are byelaws. A breach of a regulation is not an offence at law, unless, of course, the breach happened to be also an offence against the common law of the land or a breach of the peace.

## ADMISSION

No charge may be made for admission to a library or museum provided or maintained under the Acts (1892, s. 11 (3)).

A charge for admission to a museum provided and still maintained under the Museums and Gymnasiums Act may be made on certain days (M. & G.A., s. 5), but the museum must be open at least three days a week free of charge (*ibid.*, s. 4). Under section 8 of the Act a museum may be closed for repairs.

Although a charge is frequently made for borrowers' tickets there is no statutory authority permitting such a charge.

A library authority may grant the use of a lending library to persons not being inhabitants of the district, either gratuitously or for

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payment (1892, s. 11 (3)). Byelaws may be made requiring from any person using any library, museum, etc., a guarantee or security against loss of, or injury to, any book or other articles (1901, s. 3 (1) (b)). (In cases of admission of visitors to holiday resorts to the local library or museum a charge may be imposed by virtue of section 11 (3) of the Act of 1892, or, under a byelaw, a security or guarantee may be demanded.)

## STAFF

ANY library authority may appoint and dismiss salaried officers and servants (1892, s. 15 (2)).

Authorities which adopted the Museums and Gymnasiums Act are empowered to appoint and pay such officers and servants as may be thought fit (M. & G.A. s. 9).

## OFFENCES

It is an offence for any person to :

- Behave in a disorderly manner ;
- Use violent, abusive, or obscene language ;
- Bet or gamble ;
- Remain, after proper warning, after the hours fixed for closing,

to the annoyance or disturbance of any person using the same, in any library or reading room, museum, art gallery, or school provided or maintained under the principal Act (Libraries Offences Act, 1898, applied 1901, s. 4). Offenders are liable, on summary conviction, to a penalty not exceeding 40s. Byelaws may be made enabling the officers or servants of the library authority to exclude or remove from the library, etc., any person committing an offence (1901, s. 3 (1) (c)).

The Malicious Damage Act, 1861, also provides that it is an offence for any person to maliciously destroy or damage any book,



manuscript, picture, print, etc., in any museum, gallery, library, etc., and that, on conviction, the offender be liable to imprisonment for a term not exceeding six months, with or without hard labour.

It is an offence for a person suffering from an infectious disease to use any book from a public library, neither must a book which has been exposed to infection be returned to the library (*see* title "Infected Books and Persons"). It is also an offence for anyone to act in contravention of any byelaw of the library authority (*see further under* "Byelaws and Regulations").

## INFECTED BOOKS AND PERSONS

If any person knows that he is suffering from an infectious disease he must not use, or borrow, or allow to be borrowed on his behalf, any book from a public or circulating library. Neither may any person permit a book borrowed from a library to be used by any person whom he knows to be suffering from an infectious disease. Any book exposed to infection must not be returned to the library, but the local authority must be notified, and the book must be disinfected and returned to the library or be destroyed by the local authority (P.H. Acts Am. A. 1907, s. 59. This section extends only to those districts to which it has been applied by order of the Minister of Health, such orders being readily granted on application).

Any person acting in contravention of, or failing to comply with, these provisions is liable to a penalty not exceeding 40s.

The practice of disinfection varies, but in most cases the matter is left to the local Medical Officer of Health, who either destroys the books or disinfects them and returns them to the library at his discretion. In some cases the cost of replacement of destroyed books is borne by the Public Health Department, but it is generally borne by the library. In the case of books confiscated from a commercial circulating library the local authority pays to the proprietor thereof the value of any book so destroyed (*ibid.*, s. 59 (4)).

It is also an offence for any person suffering from an infectious

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disease to wilfully expose himself, without proper precautions against spreading the disease, in any public place or street (P.H.A. 1875, s. 126; P.H. (Lond.) A. 1891, s. 68).

## LOCAL ACTS

IN addition to the powers conferred by the Public Libraries Acts, public libraries and museums may be provided and maintained under Local Acts of Parliament. The provisions of the Public Libraries Acts themselves have been, from time to time, modified or extended to suit local requirements, and additional powers as to buildings, borrowing, byelaws, Government audit, etc., have been conferred in this way. Many local authorities have secured permission to provide lectures under such Acts, and, prior to the removal of the rate limitation, an extension or removal of the limit was similarly secured.

Examples of such legislation may be seen in the Manchester Improvement Act, 1871 (ch. lxxv, s. 17); the Glasgow Libraries Acts, 1899 to 1925; the Coventry Corporation Act, 1911 (ch. viii, s. 45); the Sheffield Corporation Act, 1918 (ch. lxi, ss. 240-241); the Ramsgate Corporation Act, 1922 (ch. lxxxv, s. 111); the Leeds Corporation Act, 1930 (ch. cxix, s. 65); and the Brighton Corporation Act, 1931 (ch. cix, ss. 204 and 527).

## PRINCIPAL POINTS IN EACH OF THE ACTS

### *The Act of 1892*

CONSOLIDATED and amended all previous Acts, wholly or partially in force, of which there were seven. No material alteration in the law was made.

### *The Act of 1893*

AMENDED the procedure as to adoption in urban districts and provided that the Acts might be adopted by resolution of the council.

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Enabled two or more neighbouring urban districts to combine for carrying the Acts into execution.

### *Libraries Offences Act, 1898*

MADE provision for dealing with offences in libraries, etc.

### *The Act of 1901*

EMPOWERED library authorities to make byelaws.

Extended the operation of the Libraries Offences Act to museums, art galleries, and schools provided under the principal Act.

Enabled two or more library districts to make agreements to share the cost of purchase, erection, repair, and maintenance of any library in one of the districts (as distinct from agreements to combine for the purposes of adopting and carrying into operation the Acts jointly).

Provided that, from thenceforth, the sanction of the parish meeting should not be required annually for raising the sums necessary for defraying expenses under the Acts in parishes.

Enabled a museum, provided under the principal Act, in districts which had adopted the Museums and Gymnasiums Act, to be appropriated for the purposes of that Act, which would thereupon apply to the museum as if it had been provided thereunder, thus relieving the library rate from its maintenance. It also extended the operation of that Act to the administrative county of London.

Provided that notice of adoption should be forwarded to the Local Government Board, since superseded by the Ministry of Health.

### *The Act of 1919*

ENABLED county councils to become library authorities and to adopt the Acts by resolution.

Empowered existing library authorities to relinquish their powers and duties under the Acts to the county councils if so desired.

Abolished the rate limitation of one penny in the pound, the greatest step forward in the history of public libraries.

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Enabled county and county borough councils to purchase land compulsorily for library purposes.

Repealed the remaining provisions requiring adoption by ballot (except in parishes where a poll may still be demanded by any voter present at the time when adoption is considered by the parish meeting).

Abolished the power of providing schools for science or for art, without prejudice, however, to the power of maintaining any such school already established.

Abolished the power of providing museums under the Museums and Gymnasiums Act of 1891, but without prejudice to the power of maintaining any museum already established under that Act. It also provided that where any district which had adopted that Act was, or later becomes, a library district, any museum established under that Act should be transferred to the library authority.

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## THE PUBLIC LIBRARIES (SCOTLAND) ACTS, 1887 TO 1920

THE expression "Public Libraries (Scotland) Acts," means: the Public Libraries Consolidation (Scotland) Act, 1887; the Public Libraries (Scotland) Act, 1894; the Public Libraries (Scotland) Act, 1899; and the Public Libraries (Scotland) Act, 1920, which are cited as the Public Libraries (Scotland) Acts, 1887 to 1920.

## ADOPTION; COUNTY COUNCILS; LOCAL GOVERNMENT (SCOTLAND) ACT, 1929

COUNTIES in Scotland are not empowered to adopt the Acts in the same way as similar authorities in Great Britain, but have powers conferred upon them under the Education (Scotland) Act, 1918, and the Local Government (Scotland) Act, 1929.

Under the provisions of the Education Act the education authority of a county may provide books by purchase or otherwise, for the use of school children and young persons and adults resident in the county. For this purpose a county authority may enter into arrangements with public libraries and all expenses incurred are chargeable on the county education fund (s. 5). There was a proviso to this section to prevent a county education authority levying a library rate on burghs and parishes already rated for library purposes unless and until the county rate exceeded the burgh or parish rate. But this proviso was repealed by the Local Government (Scotland) Act of 1929 (s. 18 (5)), thus making, in effect, the county the unit for library administration. The object of this Act was to open a new avenue for public library administration and provision in counties and to augment the powers granted under the Education (Scotland)

Act, above. But such a desirable object has not been completely attained and the granting of additional powers to counties has created an anomaly whereby two rates may now be levied on many districts, namely the library rate under the Public Libraries Acts and a library rate in the county education scheme under the Education Act. Willing co-operation is the only solution to the difficulty until amending and consolidating legislation is secured.

The Local Government Act of 1929 also provides that in any case where the Public Libraries Acts are in operation in any part of the landward area of a county (parishes, or any part excluding burghs), the county education scheme may provide for the administration of the Acts (s. 14 (7)). It also transfers the functions of parishes to the county councils, and the Acts may now be adopted in a landward parish or a landward part of a parish only with the consent of the county council (*ibid.*, s. 41 (1)). Such adoption is by poll or public meeting after a requisition by ten or more householders has been received by the Sheriff. If the majority of the householders are in favour the Acts come into operation forthwith, but if the result is against adoption no similar procedure may take place for two years (1887, ss. 4-6).

*Counties*, therefore, have power to administer the Public Libraries Acts in the former landward *parishes* and have power to provide library facilities under the Education (Scotland) Act, 1918, out of the county education fund. *Burghs* retain their powers and duties under the Acts (or under private Acts) and maintain libraries by means of a library rate in addition to contributing to the county library scheme in the county education rate.

In *burghs* the Acts may be adopted by a resolution of the magistrates and council (1894, s. 2), who are the library authority. One month's notice at least must be given of the intention to propose the resolution of adoption. After the resolution has been passed it must be published by advertisement in one or more of the local newspapers and it may not come into operation for at least one month after the advertisement has appeared (*ibid.*, s. 3).

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### COMBINATION

WHERE the Acts have been adopted for two or more neighbouring burghs or parishes, the burghs or parishes may combine for any period in carrying the Acts into execution, the expenses being defrayed in such proportions as may be agreed upon (1899, s. 1).

County councils, exercising their library powers under the Education (Scotland) Act, 1918, may enter into arrangements with public libraries for the purposes of those powers (s. 5). Extensive co-operation, made necessary by the Local Government (Scotland) Act, 1929, is engaged in, and for the various methods employed and suggested reference may be made to the "Proceedings of the Scottish Library Conference, 1931."

### COMMITTEES

PROVISIONS as to library committees in the Scottish Acts are very definite, and, unlike elsewhere in the British Isles, the library committee of an authority have powers as of right, and not merely by the pleasure of the council. The library authority in burghs and parishes *must* appoint, annually, a committee of not less than ten nor more than twenty members, half of whom must be members of the local authority or magistrates and the remaining half must be householders. Three members of the committee form a quorum (1887, s. 18). The committee must meet once in three months or oftener if necessary (*ibid.*, s. 19).

*Powers of Committees.*—In Scotland certain powers are compulsorily delegated to the library committee, other powers are reserved to the library authority. Powers compulsorily vested in the committee are the management, regulation, and control of all libraries, museums, etc., under the Acts; appointment of sub-committees; appointment of a clerk, librarians, officers, and servants; purchase of books, newspapers, and all other necessities; provision of the necessary amenities; sale or exchange of books, etc.; lending of books; compilation and printing of catalogues, reports, etc. (1887, s. 21). The committee may also make byelaws (*ibid.*, s. 22). The

powers reserved to the library authority are: levy of the library rate (*ibid.*, s. 7); provision and keeping of the books of accounts (*ibid.*, s. 8); appropriation, purchase, etc., of land (*ibid.*, s. 10); sale or exchange of land, buildings, etc. (*ibid.*, s. 12); borrowing money (*ibid.*, s. 14); approval of byelaws (*ibid.*, s. 30); approval of estimates (L.G. (Sc.) A., 1929, s. 41 (2)).

*Joint Committees.*—Where neighbouring library authorities agree to combine, a joint committee *must* be appointed in such proportions as may be agreed upon. Such a joint committee has the same powers as a library committee (1899, s. 2).

*Sub-committees.*—Any library committee may appoint sub-committees of their own number (1887, s. 21).

In *counties* the powers granted under the Education (Scotland) Act, 1918, are exercised by the county education authority or committee. Where the county council provides for the administration of the Acts in landward areas (parishes) under the Local Government (Scotland) Act, 1929, the library administration is under the general supervision of the education committee, or library committees may be appointed (s. 14 (7) of that Act). Under these circumstances the provisions relating to committees in the Public Libraries Acts *do not apply* (*ibid.*).

*Co-option and Membership of Committees.*—Co-option of persons not members of the local authority is compulsory inasmuch as half of every library committee under the Acts must consist of such persons (1887, s. 18). The other half must consist of magistrates and members of the local authority.

Education committees of county councils may consist partly of non-members of the council. County library committees consist of not less than one third or more than one half of persons not members of the education committee but resident in the district.

## LIBRARY RATE; EXPENSES; ESTIMATES

THE expenses of carrying the Acts into operation are paid out of a library rate levied by the magistrates and council in burghs, and such



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rate must not exceed the sum of 3*d.* in the pound. Library expenses in parishes, whose functions were transferred to the county councils by the Local Government (Scotland) Act, are levied as part of the expenses of the transferee authority. Library expenses in counties are levied as part of the education rate (when the library rate limitation does not apply). Burgh ratepayers contribute not only to the burgh library rate but also to the county library expenses levied as part of the education rate. This anomaly is due to the amendment of the Education (Scotland) Act, 1918, by the Local Government (Scotland) Act, 1929 (*see ante*, pp. 39, 40).

A library committee must make an estimate, annually, of the sums required for the execution of the Acts (1887, s. 30), and may also make a supplementary estimate (1920, s. 1 (2)). Every estimate of sums required is subject to the approval of the town council or the county council as the case may be (L.G. (Sc.) A. 1929, s. 41 (2)).

The amount of the library rate must be paid over to the library committee to be administered (1887, s. 30).

A library authority may accept parliamentary grants towards the cost of any school for science or for art established under the Acts (*ibid.*, s. 17).

## ACCOUNTS AND AUDIT

SEPARATE accounts of the receipts, payments, and liabilities under the Acts must be kept and audited annually (1887, s. 9; 1920, s. 1). In the case of combined library authorities the accounts must be audited as part of the accounts of the authority making the largest contribution to the joint expenses (*ibid.*).

Accounts of county and town councils are audited by an auditor appointed by the Secretary of State. Fourteen days' notice of the audit must be given. An abstract of accounts must be made and deposited at the office of the local authority and must be open to inspection, and extracts therefrom may be made, free of charge, both before and after the audit (L.G. (Sc.) A. 1929, s. 15 and 3rd sch.).

## PUBLIC LIBRARY LAW

### RATES AND TAXES

As in England and Wales public libraries in Scotland are not exempt from the payment of local rates, but they are exempt from the payment of income tax (*see ante*, p. 23). In addition to the authorities mentioned on that page the Scottish case of *Musgrove v. Magistrates, etc., of Dundee* (1897, 24 *Rettie*, p. 930) decided that to be exempt from income tax the buildings must be used *solely* for the purposes of a free library. In this case accommodation was afforded to a subscription library whose books, after one year's use, became the property of the public library, and it was held that such being the case the library premises concerned not being used *solely* as a free library, were liable for income tax.

### BORROWING POWERS AND LOANS

A LIBRARY authority may borrow money for the purposes of the Acts on the security of all the funds, rates, and revenues of the council, but the amount must not exceed one quarter of the library rate capitalized at the rate of twenty years' purchase, that is, the amount must not exceed a sum equal to five times the annual library rate. On repayment of the sum, or part of it, the authority may re-borrow provided the total debt does not exceed an amount equal to five times the library rate (1887, s. 14; L.G. (Sc.) A. 1929, s. 23).

Repayment of loans is made by means of a sinking fund, formed by setting aside certain sums annually for the purpose (1887, s. 15).

### LANDS AND BUILDINGS

A LIBRARY authority may appropriate, for the purposes of the Acts, any lands and buildings vested in them, and may purchase and rent any land or suitable building. For the purposes of any of the facilities provided under the Acts they may erect any building and may alter, extend, repair, and improve any such building (1887,

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s. 10). They may also sell any lands, building, or other property vested in them for the purposes of the Acts, or may exchange the same for any land, building, or other property better adapted for such purposes. Money received by means of a sale, and property received in exchange, must be applied and held for the purposes of the Acts (*ibid.*, s. 12). All lands, buildings, and property, whether purchased or rented, is vested in the library authority (*ibid.*, s. 13).

As to unauthorized user *see* the Westminster Case, *ante*, p. 28.

## FACILITIES WHICH MAY BE PROVIDED

LIBRARY authorities may provide public libraries, public museums, schools for science and for art, and art galleries, with the requisite furniture, fittings, and conveniences (1887, s. 10). The library committee may purchase books, newspapers, periodicals, statuary, pictures, etc., maps, specimens of art and science, and such other articles and things necessary; and provide fuel and lighting and suitable reading rooms (*ibid.*, s. 21). These powers are very wide, in fact the library authority or committee may "do all things necessary" in the management and for keeping the books and all property "in a proper state of preservation and repair" (*ibid.*).

The library committee may sell or exchange books or other property of which there may be duplicates, and the money received from a sale, or property received in exchange must be applied and held for the purposes of the Acts. They may also compile and print catalogues of the books, articles, or things in the libraries and museums, and reports of their proceedings, and sell them, the proceeds being applied for the purposes of the Acts (*ibid.*).

*Lectures.*—Some library authorities provide lectures by the same means as in England and Wales (*see ante*, p. 31).

## BYELAWS AND REGULATIONS

LIBRARY committees have wide powers and may make byelaws for regulating all or any matters and things whatsoever connected with

their powers under the Acts, and may, from time to time, repeal, alter, vary, and re-enact any such byelaws, provided they are not repugnant to the law of Scotland. Byelaws may impose penalties, not exceeding five pounds for each offence, for breaches of such byelaws. Except in so far as they relate to the staff, all byelaws must be approved by the magistrates and council (1887, s. 22). Notice of intention to apply for confirmation of byelaws must be given in the local newspapers one month before application is made, and objections thereto may be heard (*ibid.*, s. 23). A printed copy must also be exhibited, before application for confirmation, for inspection by any ratepayer without fee. Copies may be supplied on payment of a small charge (*ibid.*, s. 24). After confirmation, byelaws must be exhibited for inspection and copies supplied on application without charge (*ibid.*, s. 25). All confirmed byelaws when exhibited are binding upon all parties and are sufficient warrant for acting under them (*ibid.*, s. 26).

*Regulations* may be made by library committees under the power "to do all things necessary" for the management of the libraries, museums, etc. (*ibid.*, s. 21).

## ADMISSION

LIBRARIES, museums, and art galleries established under the Acts must be open to the public free of charge, and no charge may be made for borrowing books or magazines (1887, s. 32). Admission to schools for science or for art is not necessarily free.

The library committee may grant the use of libraries and may lend books to persons in schools and other similar institutions in the district and to persons carrying on business or working in the district, although such persons may not reside within the district (*ibid.*, s. 21). There are, however, no provisions in the Scottish Acts enabling persons having no connection whatever with the district to use the libraries.

## SCOTLAND

### STAFF

A LIBRARY committee may appoint a salaried clerk, and salaried librarians, officers, and servants to act during the pleasure of the committee, and has power to pay and dismiss them (1887, s. 21).

### OFFENCES; INFECTION

THERE are no statutory provisions in force relating specifically to offences in libraries as in the rest of the British Isles, but the wide powers granted to committees whereby they may make byelaws "for regulating all or any matters and things whatsoever connected with the control, management, protection, and use" of all property amply provide for the punishment of offenders.

Neither does there seem to be any statutory provision in force relating to the use of library books and property by persons suffering from infectious diseases. It is, however, an offence for any person while suffering from an infectious disease to wilfully expose himself, without proper precautions, in any street, public place, etc. (Pub. Health (Sc.) Act, 1897, s. 56 (1) (a)).

# IRELAND

## (NORTHERN IRELAND AND THE IRISH FREE STATE)

### *The New Legislative Powers*

BEFORE the year 1920 the legislative power with regard to public library legislation for Ireland was vested in the Parliament of the United Kingdom. But Southern Ireland, having attained the status of a Dominion, the power is now vested in the two Irish Parliaments, namely, the Oireachtas of Saorstát Éireann (Legislature of the Irish Free State) and the Parliament of Northern Ireland.

The Government of Ireland Act, 1920, provided for the establishment of Parliaments for Northern Ireland and Southern Ireland. It further provided that "all existing laws, institutions, and authorities in Ireland, whether judicial, administrative, or ministerial . . . shall . . . continue." The Parliament of Northern Ireland was established under this Act, but there was, however, no Parliament established for Southern Ireland. The Irish Free State Parliament was established under the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, which provided that "Subject to this Constitution . . . the laws in force in the Irish Free State . . . at the date of the coming into operation of this Constitution shall continue to be of full force and effect . . ." (Art. 73).

By the foregoing legislation the Acts relating to public libraries in Ireland in force at the formation of the new Irish Parliaments, remained in force as if they had been passed by the new Parliaments themselves. These Parliaments have power to repeal, amend, or re-enact any of the Statutes of Great Britain applicable to Ireland. So far only three amendments to the law relating to public libraries have been effected, namely, by the Public Libraries Act, 1924, passed by the Parliament of Northern Ireland, and by the Local Government Acts of 1925 and 1927, passed by the Oireachtas of Saorstát Éireann.

## THE PUBLIC LIBRARIES (IRELAND) ACTS

THE expression "Public Libraries (Ireland) Acts" means:

For Northern Ireland—the Public Libraries Act (Ireland), 1855; the Public Libraries (Ireland) Amendment Act, 1877; the Public Libraries (Ireland) Act, 1894; the Public Libraries (Ireland) Act, 1902; the Public Libraries (Art Galleries in County Boroughs) (Ireland) Act, 1911; the Public Libraries (Ireland) Act, 1920; and the Public Libraries Act (Northern Ireland), 1924, which are cited as the "Public Libraries Acts (Northern Ireland), 1855 to 1924."

For the Irish Free State—the Acts above mentioned to the Act of 1920, which are cited as the Public Libraries (Ireland) Acts, 1855 to 1920.

Other Acts affecting public libraries in Ireland are—the Public Libraries Amendment Act, 1877; the Public Libraries Act, 1884; the Libraries Offences Act, 1898; the Local Government (Ireland) Acts of 1894, 1898, 1900, and 1902, and, in the Irish Free State only, the Local Government Act, 1925 [I.F.S.].

In the whole of Ireland, although it is not expressly mentioned in the Acts, the library authority in counties and rural districts is the county council; in incorporated boroughs, the council or the municipal commissioners; in towns, the town commissioners. (If, after a poll for adoption has been taken, the Ministry of Home Affairs in Northern Ireland or the Minister for Local Government in the Free State, is of opinion that proper steps have not been taken by the authority, the Ministry or Minister may appoint a body of library commissioners who act as the library authority.)

## ADOPTION

*Urban Districts, Boroughs, and Towns.*—The Acts may be adopted in any urban district (incorporated borough, or town) by resolution of the council, provided one month's notice at least of the meeting and of

the intention to propose the resolution has been given (1894, s. 1 (1)). The Acts may also be adopted by a poll of the ratepayers. Upon the receipt of a requisition of twenty or more voters, the opinion of the voters must be ascertained by ballot. The majority being in favour of adoption the Acts are deemed to be adopted, but if the result be a negative one no further proceedings may be taken for one year (*ibid.*, s. 1 (2)-(8)).

*Counties (N. Ireland).*—The council of a county have power by resolution, specifying the area to which the resolution extends, to adopt the Acts for all or any of the *rural* districts situate in the county ((N. Ire.), 1924, s. 1 (1)). The power of adoption by rural district councils ceased on the passing of the Act of 1924.

*Counties (Irish Free State).*—The council of any county have power by resolution to adopt the Acts for the whole or any part or parts of the county, *excluding* any *urban* district (L.G.A. 1925 [I.F.S.], s. 65 (1)).

In addition to the power of adoption counties in the Free State may make grants in aid, out of funds for technical education, to any library authority for the purchase of books or towards the maintenance of any public library (1902, s. 6. This power has been repealed as respects Northern Ireland).

*Rural districts* in the whole of Ireland are now unable to adopt the Acts. Formerly, the council of a rural district might adopt the Acts by resolution, and might rescind such a resolution at any time. By the provisions of the Northern Ireland Act of 1924 the powers of adoption and execution in *any* rural district ceased on the passing of that Act, and where any rural district was carrying the Acts into execution, the council of the county in which the district was situated was deemed to have adopted the Acts for that district ((N. Ire.), 1924, s. 1 (1) (2)). The property, rights, and liabilities of such rural districts were transferred to the county council (*ibid.*, s. 4).

By virtue of the Free State Local Government Act, 1925, all rural district councils ceased to exist on the 1st October, 1925, and their powers, duties, property, debts, and liabilities were transferred to the county council (s. 3).

*The Museums and Gymnasiums Act, 1891*, may be adopted in Ireland



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by resolution of the council of an urban district in the same manner as the Public Libraries Acts. The amendments to this Act effected by the Public Libraries Act, 1919, do not apply to Ireland; the Act, therefore, applies in its entirety to the whole of Ireland.

### *Notice of Adoption*

On the adoption of the Acts (and of the Museums and Gymnasiums Act) in Northern Ireland a copy of the resolution must be forwarded to the Ministry of Home Affairs; in the Free State a copy must be forwarded to the Minister for Local Government (1894, s. 1 (1); M. & G.A. 1891, s. 3 (4)).

The resolution of adoption must be published in the local press and must be posted with other public notices throughout the district (*ibid.*).

### *Relinquishment of Powers*

*Northern Ireland.*—The council or commissioners of any urban district or town who have adopted the Acts may, on terms to be agreed upon and approved by the Ministry of Home Affairs, relinquish in favour of the county council all or any of their powers and duties under the Acts ((N. Ire.), 1924, s. 2 (1)); under these circumstances all property, rights, and liabilities are transferred to the county council (*ibid.*, s. 4).

A county council, and the council or commissioners of an urban district or town who have relinquished their powers and duties, may, if they think it advisable, apply to the Ministry for an order rescinding the agreement as respects that district or town. On any such joint application the Ministry may, if it is thought fit, make an order and the district or town concerned is, from then onwards, a separate library authority (*ibid.*, s. 2 (2)).

*Irish Free State.*—The council of any urban district may, on such terms as may be agreed upon and with the approval of the Minister for Local Government, relinquish in favour of the county council their powers and duties under the Acts (L.G.A. 1925 [I.F.S.], s. 65 (6)).

It should be noted that there is no statutory provision enabling urban districts to resume their powers and duties as separate library authorities after relinquishment to the county council as there is in England and in Northern Ireland.

## COMBINATION

TWO or more neighbouring districts may, by agreement, combine for any period for carrying the Acts into execution, expenses being defrayed in such proportions as may be agreed upon between the combining authorities. For this purpose a joint committee may be formed and have such powers, except that of borrowing money, as the combining authorities may confer upon them (1894, s. 3).

The urban authorities of any two or more districts may also agree to share, in such proportions and for such period as may be determined, the cost of the purchase, erection, repair, and maintenance of any library building situated in one of those districts, and also the cost of books and newspapers and all other expenses (*ibid.*, s. 7).

The urban authority of any district may enter into a like agreement with the governing body of any library established or maintained out of charity funds (*ibid.*).

Any agreement between library authorities (or between a library authority and any other body) may provide that on the termination of the agreement an adjustment shall be made of the interests in any property jointly provided (*ibid.*, s. 10). In any dispute as to proportioning the expenses under an agreement or in the settlement of interests on the termination of an agreement, an adjustment shall be made by the Ministry of Home Affairs in Northern Ireland or by the Minister for Local Government in the Free State, or by an arbitrator appointed for the purpose (*ibid.*, ss. 3 (3), 10).

In the Irish Free State the council of any county may arrange with the council of any urban district in the county or with any county borough adjoining the county, for the use of any library facilities situate in such district or borough by the whole or part of the

county (L.G.A. 1925 [I.F.S.], s. 65 (4)). Where a county council is the library authority for two or more separate areas in the county, the council may, with the consent of the Minister, amalgamate such areas for financial purposes (*ibid.*, s. 65 (7)).

## COMMITTEES

*Urban Districts, Boroughs, and Towns.*—The general management, regulation, and control of any of the institutions or facilities provided under the Acts may be vested in a committee (1855, s. 12), which may consist in part of persons not members of the council or board, or commissioners (1877, s. 4).

*Counties (N. Ireland).*—In the case of a county council the council are obliged to appoint a county library committee for the purpose of carrying the Acts into execution ((N. Ire.), 1924, s. 1 (3)). Such committees consist of the chairman and vice-chairman of the council; representatives from the rural districts, urban districts, and towns for which the council is the library authority; and members of the county council. A committee may also co-opt further members not being members of any local authority in the county (*ibid.*, sch.). The acts of the county library committee must be submitted to the county council for their approval (*ibid.*, s. 1 (3)).

*Counties (Irish Free State).*—A county council may appoint such committees as are thought fit for the exercise or performance of any of their powers and duties. Any such committee may be a general committee functioning for the whole of the county, or a local committee functioning for a portion only of the county; and shall consist of at least three members and may be composed either wholly of members of the council or partly of such members and partly of other persons. The acts of the committee are subject to confirmation of the county council, but, with the sanction of the Minister for Local Government, a committee may be empowered to do any act which the council could lawfully do, but a county council may not delegate any of its powers and duties to a committee (L.G.A. 1925 [I.F.S.], s. 58).

*Joint Committees of Combined Authorities.*—Where neighbouring districts agree to combine for the purpose of carrying the Acts into execution, a joint committee may be formed consisting of members appointed by the combining authorities, who need not be members of any of the authorities. Any such committee may have such powers, except that of borrowing money, as the authorities may agree to confer upon it (1894, s. 3).

*Membership ; Co-optation ; Reference and Delegation of Powers*

IN *urban districts, boroughs, or towns* the general management, regulation, and control of the institutions, and the facilities, provided under the Acts may be vested in the committee, which therefore enjoys such powers and duties as are conferred upon it by the authority (1855, s. 12). Such committees may consist wholly of members of the local authority or partly of such members and partly of other persons (1877, s. 4).

In *counties in Northern Ireland* committees may consist wholly of members of the various local authorities, or partly of such members and partly of other persons ((N. Ire.), 1924, sch.)). All their acts must be submitted to the county council for approval (*ibid.*, s. 1 (3)).

In *counties in the Irish Free State* committees must consist of at least three members, and may be composed wholly of members of the council or partly of such members and partly of other persons. The acts of a committee are subject to confirmation by the county council, unless the sanction of the Minister has been secured empowering a committee to do any act which the council itself might lawfully do. But in spite of this last provision a county council may not delegate any of its powers and duties to a committee (L.G.A. 1925 [I.F.S.], s. 58).

*Joint Committees* may consist wholly of members of the combining authorities, or wholly of other persons, or partly of members of the authorities and partly of other persons. Any joint committee may be granted any of the powers and duties of a library authority except the power of borrowing money (1894, s. 3).

## LIBRARY RATE; EXPENSES

THE amount of the library rate in Ireland was formerly not to exceed 1*d.* in the £. This limitation was raised in 1911 to 1½*d.* and in 1920 to 3*d.*, with the proviso that a county borough might, with permission, exceed that amount by 3*d.* The Northern Ireland Act of 1924, however, limited the expenditure of county councils in respect of all districts for which the council is the library authority to a rate of 1*d.* in the £, but provided that urban districts and towns might, with the consent of the Ministry of Home Affairs, exceed the amount to an extent not exceeding 2*d.* in the £. The Act does not affect the expenditure of urban districts, boroughs, and towns which have not relinquished their powers to the county council.

The present position is as follows:

*Northern Ireland*: Rural districts, limit of 1*d.* in the £ ((N. Ire.), 1924, s. 3 (1)); urban districts and towns, not being separate library authorities, limit of 1*d.* which may be exceeded, by permission, to an extent not exceeding 2*d.* in the £ (*ibid.*, proviso to s. 3 (2)); boroughs, urban districts and towns retaining their powers and duties under the Acts, limit of 3*d.* (1920, s. 1 (1)); county boroughs, limit of 3*d.* which may be exceeded, by permission, to an extent not exceeding 3*d.* (*ibid.*, proviso).

*Irish Free State*: All authorities, limit of 3*d.* in the £ (1920, s. 1 (1)); in county boroughs the limit of 3*d.* may be exceeded, by permission, to an extent not exceeding 3*d.* (*ibid.*, proviso).

In *Northern Ireland* expenses of a *county council* (which include expenses of *rural districts*) are defrayed out of the county fund raised by means of a poor rate over so much of the county in which the Acts are operative ((N. Ire.), 1924, s. 9 (1)), and in *boroughs* and *towns* out of the borough or town rate, or a special rate may be levied (1855, s. 5).

In the *Free State* expenses of a *county council* (which include expenses of *rural districts*) are charged on the area for which the Acts are

## PUBLIC LIBRARY LAW

operative (L.G.A. 1925 [I.F.S.], s. 65 (3)); but the county council may amalgamate library districts for financial purposes and charge an amalgamated rate (*ibid.*, s. 65 (7)). In *boroughs* and *towns* expenses are defrayed out of the borough or town rate, or a separate rate may be levied (1855, s. 5).

Any council or commissioners in Northern Ireland may encourage and assist the establishment or continuance of voluntary agencies and may be associated with voluntary associations ((N. Ire.), 1924, s. 5). Counties in the Free State may make grants-in-aid to any library authority for the purchase of books or towards the maintenance of any public library (1902, s. 6).

## ACCOUNTS AND AUDIT

DISTINCT accounts must be kept of the receipts, payments, and liabilities of a library authority under the Acts (1855, s. 5). Such accounts must be audited in the same way as the other accounts of a local authority. Within one month of the audit a copy of the accounts must be sent, in Northern Ireland, presumably, to the Ministry of Home Affairs, and in the Free State, presumably, to the Minister for Local Government. (It was formerly required to be sent to the Lord Lieutenant.) A copy must also be deposited in the office of the clerk of the local authority and must be open to inspection by householders. Copies must also be delivered to householders making application, upon payment of a reasonable fee (*ibid.*, s. 6).

## RATES AND TAXES

As in England and Wales, buildings and land provided and maintained by library authorities are *not* exempt from the payment of local rates (see the Liverpool Corporation case and this title generally, *ante*, p. 23; see also *Cork Corporation v. Commissioner of Valuation* [1916], 2 I.R. 77). In the case of payment of income tax, public libraries in Ireland are exempt under the same authority as in England

and Wales, namely, under the Income Tax Act, 1918, *ante*, p. 23. (In the Free State exemption is also granted under the Free State Finance Acts.)

## BORROWING POWERS AND LOANS

LIBRARY authorities may borrow money for carrying the Acts into execution, with the approval of the Ministry of Home Affairs in Northern Ireland and of the Minister for Local Government in the Free State, on the security of the borough or town rate or of the library rate (1877, s. 5). County councils in Northern Ireland may borrow money for the purposes of the Acts ((N. Ire.), 1924, s. 1 (4)). County councils in the Free State are empowered to borrow money under the Local Government (Application of Enactments) Order, 1898 (which applies the provisions in force in England as to borrowing by county councils). This Order is also applicable in Northern Ireland.

## LANDS AND BUILDINGS

THE library authority may, with the approval of the Ministry of Home Affairs in Northern Ireland and of the Minister for Local Government in the Free State, appropriate for the purposes of the Acts any lands vested in the local authority; and may, with approval, purchase or rent lands and buildings; erect, take down, alter, and extend buildings for any of the facilities provided under the Acts; and furnish and supply all furniture and fittings (1855, s. 9). With similar approval as is required for the purchase of land, library authorities may sell any land vested in them, or exchange it for other land better adapted for the purpose (*ibid.*, s. 11). They may also let a house or building or land or any part thereof, which may be vested in them, and not at the time required for the purposes of the Acts. Rents and profits of such letting must be applied towards the purposes of the Acts (1894, s. 5).

Any person holding land for public or charitable purposes may

## PUBLIC LIBRARY LAW

grant or convey, by gift, sale, or exchange, any quantity of such land, not exceeding one acre (*ibid.*, s. 6).

All property held under the Acts is vested in the library authority (1855, s. 13).

## MUSEUMS AND GYMNASIUMS ACT, 1891

THIS Act applies to Ireland in the same way as it formerly applied to England and Wales. The amendments made by the Public Libraries Act of 1919, which provided that it should cease to have effect in so far as the provision of museums was concerned in England and Wales, did not affect its application in Ireland. It may therefore be adopted for museum and gymnasium purposes, and museums may be provided and maintained under its provisions, these powers being in addition to the power of providing and maintaining museums under the Public Libraries (Ireland) Acts.

In the application of *this Act* to Ireland reference may be made to the provisions set out *ante*, on p. 12, adoption; p. 21, expenses; p. 21, accounts and audit; p. 26, lands and buildings; p. 31, byelaws; p. 33, admission; etc.

## FACILITIES WHICH MAY BE PROVIDED

A LIBRARY authority may provide and maintain public libraries and museums, schools of science and of art, schools of music, and art galleries, and may provide fuel and lighting therefor (1855, ss. 9 and 11; 1877, s. 3). They may also provide books, newspapers, maps, specimens of art and science and, in the case of a school of music, musical instruments and books, and may bind and repair the same when necessary (1855, s. 11; 1877, s. 3).

Library authorities in the Free State are also empowered to provide libraries in schools (L.G.A. 1925 [I.F.S.], s. 66).

Museums may also be provided and maintained by authorities adopting the Museums and Gymnasiums Act, 1891.



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*Lectures.*—Library authorities in the Free State may incur expenditure out of the library rate by the provision of public lectures and exhibitions (L.G.A. 1925 [I.F.S.], s. 66). The position in Northern Ireland is the same as in England and Wales, where no statutory provision exists which legalizes the provision of lectures; unless, of course, powers have been secured under a Local Act of Parliament (*see ante*, p. 31).

## BYELAWS AND REGULATIONS

*Byelaws.*—Library authorities in Ireland may make byelaws in the same way as they may be made in England and Wales, and the Irish Act of 1902 (s. 8) extended the provisions of the English Act of 1901 to Ireland, with the exception that byelaws must be made subject to the Public Health (Ireland) Act, 1878, and are presumably submitted for confirmation to the Ministry of Home Affairs in Northern Ireland and to the Minister for Local Government in the Free State. In effect the provisions as to byelaws in Ireland are substantially the same as in England (*see ante*, p. 31).

*Regulations.*—Library authorities may also make rules and regulations for the safety and use of the facilities provided, and for admission (1855, s. 12).

## ADMISSION

LIBRARIES and museums established under the Acts must be open to the public free of charge (1855, s. 15).

Regulations may be made for the use by visitors of any of the facilities provided (*ibid.*, s. 12).

Use of a lending library may be granted to persons not being inhabitants of the district, either gratuitously or for payment (1894, s. 4).

Admission to lectures provided in the Free State may be free or subject to charges (L.G.A. 1925 [I.F.S.], s. 66).

## PUBLIC LIBRARY LAW

As to admission to museums under the Museums and Gymnasiums Act, 1891, *see ante*, p. 33.

## STAFF

LIBRARY authorities have power to appoint and to dismiss salaried officers and servants (1855, s. 12), including teachers for any schools provided under the Acts (1877, s. 3).

## OFFENCES

THE Libraries Offences Act, 1891, is applicable to Ireland (1902, s. 7), as is also the Malicious Damage Act, 1861 (*see ante*, p. 34).

## INFECTED BOOKS AND PERSONS

THE position as to infected books and persons is in effect substantially the same as in England and Wales (*see ante*, p. 35).

## QUESTIONS AND ANSWERS<sup>1</sup>

A SELECTION of questions on library law set at recent Library Association examinations, with Answers. In the case of questions which are clearly answered in the text, a reference to the relevant page only is given.

Q. Has the "rate limitation" been removed by the Public Libraries Act, 1919 ?

A. Yes. Provision is made in that Act for voluntary limitation (*see* p. 20).

Q. Is it legal for a public library authority to purchase photographs of local topographical interest ?

State the clause or clauses, and the Act or Acts, under which you would justify the purchase, from the library rate of (a) local prints, (b) a local trade-token, and (c) photographs of the local antiquities of the town.

A. In England and Ireland such purchases are not expressly provided for in the Acts, neither are they definitely outside the powers conferred by the Acts. In view of the fact that art galleries may be provided and maintained, the purchase of prints would not be considered unlawful. The purchase of a trade-token might well be considered a museum specimen, and as such might be secured for a museum collection maintained under the Acts (Section 15 of the Principal Act).

In Scotland the wide powers granted by s. 21 of the Act of 1887 would cover such expenditure (*see* p. 45).

Q. Mention the Acts and sections thereof which provide authority for the appointment and dismissal of officers.

<sup>1</sup> These questions are reprinted by the courtesy of the Library Association. A set of examination papers is published in the *L. A. Year-book*, issued annually.

## PUBLIC LIBRARY LAW

A. England and Wales, 1892, s. 15 (2) (p. 34); Scotland, 1887, s. 21 (p. 47); Ireland, 1855, s. 12 (p. 60).

Q. Define the powers of a library committee under the English and Scottish Acts.

A. As to England, *see* "Reference and Delegation of Powers to Committees," p. 17; and to Scotland, *see* "Powers of Committees," p. 41.

Q. State how the Public Libraries Act, 1919, affects the provision of museums.

A. *See* "Museums and Gymnasiums Act" and "Facilities which may be provided: Museums," pp. 29, 30.

Q. Some public library committees make charges for the use of certain sections or departments of their libraries by the public. To what extent are such charges strictly legal, and how are some of them disguised as legal within the meaning of the Acts (*sic*).

What charges for the use of a public library may be made legally.

A. It is illegal to make a charge for admission to, or use of, a library established and maintained under the Acts, or for the issue of borrowers' tickets. Certain charges are made by some library authorities, but if such charges were disputed the library authority could not enforce payment. A charge may be made, however, for the use of library facilities by persons not being inhabitants of the district. *See* "Admission," p. 33.

Q. What legal provision is made for holding meetings of a public library committee? Mention the Act, or Acts, upon which you base your answer, and state whether there is any legal reason for holding meetings monthly.

A. There are no definite provisions in the English and Irish Acts as to meetings of committees, but in Scotland committees in burghs must meet once in every three months, or oftener if desired (1887, s. 20) (*see* p. 41).

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In the case of a body of library commissioners, however, there must be a meeting of the commissioners at least once in every month (1892, s. 7).

There is no legal obligation requiring monthly meetings. Committees meet as often as may be considered desirable or expedient by the committee itself or by the local authority.

Q. State the authority for the making of byelaws for a public library. For what purposes can byelaws be framed, and what is the procedure for the bringing of them into operation ?

A. See "Byelaws and Regulations," p. 31.

Q. When is a so-called byelaw merely a regulation ?

State the difference between a byelaw and a regulation, and mention the Act or Acts requiring the formulation of each.

Discuss the legality of rules and regulations, and mention the Acts relating thereto.

What is the legal position with respect to ordinary library rules and regulations ? Can steps be taken for enforcing them ?

A. Regulations may be made under the principal Act (s. 15 (2)), and byelaws under the Act of 1901 (s. 3). Byelaws must be confirmed by a higher authority and are enforceable in a court of summary jurisdiction. Regulations need no such confirmation and are not so enforceable. The procedure for securing a set of byelaws is longer and more complicated than is necessary in the case of regulations (see pp. 31-33).

Q. What is the present position of public libraries in respect to rating and taxation ? What do you know of the conditions under which libraries pay, or are exempt from paying (a) income tax, and (b) local rates ?

What is the state of the law in respect of the payment of local rates by libraries ?

A. Public libraries are liable for the payment of rates, but not for the payment of income tax (see p. 23).

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Q. What constitutes a Part II Authority in regard to Education Acts ? In what respect does it differ from a Part III Authority ? Does the distinction affect public library policy in any way ?

A. A Part II Authority under the Education Acts has powers for the purpose of higher education, namely, a county or county borough council. A Part III Authority has powers for the purposes of elementary education only. A Part II Authority may purchase land compulsorily for the purposes of the Acts ; a Part III Authority is not so empowered. See "Education Committees," p. 16, and "Compulsory Acquisition of Land," p. 27.

Q. Over what area may a county council levy a library rate for the purpose of rural libraries ?

When expenses have been incurred by a county council under the Public Libraries Acts, from what fund are such expenses to be defrayed and what are the provisions whereby a county council may make charges upon parishes in its area ? Quote the Act or Acts upon which you base your reply.

A. County expenses under the Acts are defrayed out of the county fund, but library expenses in parishes may be charged on such parishes which the county council consider are specially served by any library facilities provided (*see* p. 20).

Q. Is the provision of a newsroom stipulated or suggested in library law ?

A. Such provision is not stipulated, but it is suggested by the power to provide newspapers contained in the Acts. See "Facilities which may be provided," p. 30 (England and Wales); p. 45 (Scotland); p. 58 (Ireland).

Q. Is there any legal ground for procedure against persons concealing public library books from sanitary officers during the occurrence of infectious disease? Which authority should act against the offenders ?

A. Proceedings may be taken against such persons under (a) the

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Public Health Acts Amendment Act, 1907, s. 59, if it has been applied to the district; (b) a byelaw providing for such a contingency; and (c) a Local Act containing similar provisions to those contained in the Public Health Act of 1907. See "Infected Books and Persons," p. 35.

Q. A public library has been closed to the public on an election day, and used as a polling station. Discuss the legality of this matter, and mention any Acts relating thereto.

A. Such an action is legal. A returning officer may use, free of charge, any room the expense of maintaining which is payable out of any local rate (Ballot Act, 1872, s. 6).

Q. In Scottish library legislation what matters are (a) permissive, and (b) obligatory?

A. The more important powers are:

(a) Adoption; appropriation and hire of land; building; sale or exchange of land; borrowing; making of byelaws; combination; supplementary estimates of expenses.

(b) Accounts, keeping and inspection; vesting of property in the local authority; provision of a sinking fund for repayment of loans; appointment of library committee; management, etc., of all libraries and museums must be vested in the committee; publication and exhibition of byelaws; an annual estimate of sums required must be made and must be submitted for approval to the council; the sum required to meet expenses must be paid to the library committee.

Q. State the provisions made in the Public Libraries Act, 1919, respecting expenses and audit.

A. Briefly it may be said that: the rate limit was removed; provision is made for a voluntary limitation; county library expenses are chargeable on the county fund; certain expenses may be charged on parishes; county library accounts are subject to audit in manner provided by the Local Government Act, 1888; but see "Accounts and Audit," p. 21, and "Expenses," p. 20.

Q. What is meant by "delegation of powers" to library committees ?

A. See "Committees: Reference and Delegation of Powers," p. 17; and see "Powers of Committees," p. 41 (Scotland); "Reference and Delegation of Powers," p. 54 (Ireland).

Q. What are the statutory provisions regarding the appointment of a library committee in England under: (a) a county authority; (b) a borough council; and (c) an urban district council?

A. See "Committees," p. 15.

Q. Under what Act or Acts may museums be established in England? State the main provisions of such Act or Acts in regard to museums.

A. See "Facilities which may be provided: Museums," p. 30. Museums may also be established and maintained under a Local Act.

Q. State the position of the differently constituted library authorities with respect to the audit of accounts.

A. Except in the case of a municipal borough, accounts of all library authorities in England and Wales are audited by a district auditor. In municipal boroughs audit is by three borough auditors. But see "Accounts and Audit," p. 21.

Q. What is the present legal position in the following circumstances: A county education authority having adopted the Public Libraries Acts and put them into operation, a town within the county wishes to establish an independent library service. Can the town council carry its wishes into effect?

A. A county council may apply to the Board of Education to have the resolution of adoption, in so far as it relates to any particular district, rescinded. The local authority of any such district, on the rescission of the county resolution, is then free to establish its own library service. See "Adoption: Relinquishment of Powers," 2nd para., p. 13.



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Q. Compare the 1919 Public Libraries Act for England with the 1920 Public Libraries Act for Scotland.

A. The English Act of 1919, consisting of 11 sections, and the Scottish Act of 1920, consisting of 2 sections, may be compared only in so far as they are concerned with matters of a similar nature, namely, the library rate. The English Act abolished the limit and provided for the imposition of a voluntary limit. The Scottish Act merely increased the limit to 3*d.* in the £.

Q. Assume the necessity for raising a loan to purchase a piece of land for a branch library. Under what Act or Acts may this be done, and what is the procedure ?

A. See "Borrowing Powers and Loans," p. 23.

Q. In the event of an existing library authority relinquishing its powers and duties in favour of a county council, what is the legal position with respect to property or rights belonging to the authority giving up its powers ?

A. On relinquishment of powers to county councils the property or rights acquired under the Acts are transferred to, and become vested in, the county council, and any liabilities incurred become liabilities of the county council (*see* p. 14).

Q. What Acts, other than Public Library Acts, are in force which have direct bearing on libraries and museums ?

A. (a) Local Acts; (b) the Museums and Gymnasiums Act, partly in force (*see* pp. 29-30).

Q. What powers are given to county councils in the matter of libraries under the Act of 1919 ?

A. County councils may adopt the Acts, "take over" the powers and duties under the Acts of existing library authorities not being county boroughs, and purchase land compulsorily. Their library expenses are defrayed out of the county fund, but they may charge such expenses on parishes which they consider are served by the facilities provided under the Acts.

Q. Describe what is meant by differential rating under a county library authority.

A. See "Library Rate: Counties," p. 20.

Q. In a library, where no byelaws have been adopted, an inhabitant persists daily in carrying on audible conversation despite warning and admonition. What is the legal position of the staff with respect to such an offender?

A. In view of the fact that regulations are not enforceable in a court of law as are byelaws, it would seem that there is no remedy for this nuisance. Such conduct could not be described as a "breach of the peace" and it is an arguable point whether such an offender could be considered as behaving "in a disorderly manner," thus rendering himself liable to prosecution under the Libraries Offences Act, 1898. The obvious remedy would be for the library authority to secure a set of byelaws without delay.

Q. Assume a library authority wishes to acquire property adjoining an existing library building for extension purposes, what is the legal position with respect to the financial and other considerations involved apart from building?

A. If the adjoining property belongs to the local authority it may be appropriated without cost, otherwise it may be purchased by agreement and money may be borrowed for the purpose, with the approval of the Minister of Health, on the security of the rates. In the event of difficulty in purchasing by agreement a county or county borough may, with the consent of the Board of Education, resort to compulsory acquisition. See "Lands and Buildings," p. 26, and "Borrowing Powers," p. 23.

Q. What powers does a library authority possess with respect to the purchase of land for library purposes?

A. Any library authority may purchase land for the purposes of their powers under the Acts. County and county borough authorities in England and Wales may, with the sanction of the Board of Education, acquire land compulsorily. See "Lands and Buildings."

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Q. What provision is made for a library authority to relinquish its powers, and what steps can be taken to safeguard the library service that exists in such a case ?

A. Provision is made in the Act of 1919 for library authorities, other than county boroughs, to relinquish their powers to the county council ; and for county councils to relinquish their powers in respect of a particular area within the county. See "Relinquishment of Powers," p. 13. There is no provision in the Act to ensure that a library service shall be continued in such a case, but, on the other hand, once a library service has been established the Acts do not permit of its being abandoned.

Q. What are the principal provisions of the 1892 Act remaining in force ?

A. The proceedings for adoption by poll now applicable only in parishes situate in counties not being library authorities ; the constitution of commissioners ; the power of combination between neighbouring parishes and power to annex a parish to an adjoining district ; the provision of libraries, museums, and the necessary furniture and fittings ; the provisions as to acquisition and disposal of lands and buildings ; the power to build, etc. ; the provisions as to admission to and use of libraries and museums ; the power to grant land to library authorities ; the provisions as to management, appointment of staff and committees ; the provision of books, newspapers, etc. ; the provisions as to binding and repairs ; the power to combine with a library established out of charity funds ; the power to accept parliamentary grant towards cost of schools maintained under the Acts ; the provisions as to the method of defraying expenses in boroughs and urban districts ; the power to borrow money ; the powers as to accounts and audit ; the provisions as to London ; the provisions as to adjustment of interests on termination of agreements to combine.

Q. What is the legal position where two neighbouring authorities wish to promote a joint library ?

A. Neighbouring authorities may agree to combine for the pur-

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pose of jointly carrying the Acts into execution; or an agreement may be made whereby one authority, not having a library service, may use the library facilities of another without itself carrying the Acts into operation. See "Combination," p. 14.

Q. How may a public library committee be constituted in a county, a county borough, and a borough? Comment upon changes permitted by the Act of 1919.

A. As to constitution in counties, *see* p. 16; in county boroughs, *see* p. 16; and in boroughs, *see* p. 15. The Act of 1919 effected changes in so far as committees of county boroughs are concerned. County boroughs, which adopted the Acts before 1919, are empowered to refer their library powers and duties to the education committee, but they are not obliged so to do. County boroughs adopting the Acts after 1919 must refer their library powers and duties to the education committee. See "Committees: County boroughs," p. 16.

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